AMELIORATING WASTE. — The law was formerly very stringent in repressing acts of waste. A tenant was not only liable for an act which injured the reversion, but it was even said, "if the tenant build a new house it is waste." Co. Litt. 53 a. But the law has developed with the changing conditions, and to apply the ancient doctrine of waste to modern tenancies would in some of our cities put an entire stop to improvement. Taylor, Landlord & Ten., 8th ed., § 408. This adaptation of the law to modern exigencies is well seen in the American cases which hold it is not waste to clear a reasonable proportion of forest land. *Shine* v. *Wilcox*, 1 Dev. & B. Eq. 631. Two sets of rulings have contributed to this change. It has been long firmly established in the common law courts that when a plaintiff gets only nominal damages for an alleged waste judgment must be entered up for the defendant. *Governors of Harrow* v. *Alderton*, 2 B. & P. 86. Further, courts of equity have refused to enjoin technical waste when the damage was trivial. *Doherty* v. *Allman*, 3 App. Cas. 709.

A recent case seems to break in upon this latter rule. *West Ham Charity Board* v. *East London Water Works Co.*, [1900] 1 Ch. 624. The lessee of a term of ninety-nine years sublet the demised premises for a dumping ground. The evidence was in conflict as to whether or not the added material increased the value of the land. The court applied the test put forward in *Lord Darcy* v. *Askwith*, Hob. 234, and, finding that there had been an alteration of the demised premises, granted an injunction irrespective of the question whether the alleged waste increased or decreased the value of the premises. This case is in accord with an Ontario case, *Nottingham* v. *Osgood*, reported 3 Sedg. Damages, 8th ed., § 950, but as it would seem *contra* to *Meux* v. *Cobley*, [1892] 2 Ch. 213, and to *Doherty* v. *Allman*, *supra*, where the House of Lords refused to enjoin a tenant from converting a store into a dwelling-house, — certainly a much greater alteration of the premises than that in the principal case, — Lord Blackburn saying the later cases are all uniform that for an injunction real damage is required.

The opinion of the court in the principal case is not very helpful, and pays little attention to these recent cases, the rule followed, "that alteration of the thing demised is the test of waste," being that of a case decided in 1617. Undoubtedly, three or four hundred years ago it was very important for the security of title that the condition of land leased should not be altered, as a change say from the twenty acres of pasture stated in the deed to be demised to twenty acres of meadow might cause confusion. But with the present system of conveying by metes and bounds and the further aids of ordnance maps and registration of deeds this danger is very slight if not altogether chimerical. It is nowadays to the interest of the public that a tenant should be hampered as little as possible by restrictions which are vexatious to him without being of proportionate advantage to the reversioner. Consequently it would seem that for actionable waste substantial pecuniary damage to the reversion should be required and that a mere alteration of the demised premises which renders them unfit for their former use without decreasing their general value, is not enough. If the lessor considers their return in their former condition important, he can fully protect himself by covenants and conditions. Moreover, in spite of the principal case, it is submitted that there is no sufficient modern authority in conflict with this view.